

Title 16, PHYSICAL THERAPY BOARD OF CALIFORNIA

NOTICE IS HEREBY GIVEN that the Physical Therapy Board of California is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Elihum Harris Bldg., 1515 Clay Street, Room 9, Oakland, California 94612, (510) 622-2564 at 1:30 p.m. on Thursday, October 25, 2007. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Physical Therapy Board of California at its office not later than 5:00 p.m. on October 15, 2007 or must be received at the hearing. The Physical Therapy Board of California, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 125.9 and 2615 of the Business and Professions Code and to implement, interpret or make specific sections 125.9 or 2615 of said code, the Physical Therapy Board of California is considering changes to Division 13.2 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW

1) Amend Section 1399.25 and Repeal 1399.26

Section 125.9 of the Business and Professions Code authorizes the board within the Department of Consumer Affairs to establish a system for the issuance of a citation to a licensee which may contain an order of abatement or an order to pay an administrative fine assessed by the board when the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.

Existing Section 1399.25 currently authorizes the Executive Officer of the Physical Therapy Board of California to issue citations containing orders of abatement and fines for violations by physical therapists and physical therapist assistants.

Existing regulations do not incorporate all those sections in the California Code of Regulations and the Business and Professions Code which when violated, the Board in its sole discretion, determines that the facts of a particular case warrants a lesser action of an administrative citation and fine. The current language identifies only specific statute and regulation codes which restrict the board's authority to issue citations on other violations that are not at a disciplinary level but should be at a citable level. The proposed language also offers a solution to the Board's present problem of the necessity to continually file a Rulemaking File to give authority to cite on new statutes which are not included in the list of citable offenses in 1399.26.

The proposed regulatory amendment will incorporate all current and future sections in the laws and regulations and any other statutes or regulations for which the board may issue a citation and fine.

The proposed regulatory amendment to 1399.25 will establish what factors will be taken into consideration and what circumstances will apply when determining the amount of the fine and sets forth the conditions which will permit the Board to issue an administrative fine of over \$2,500.

The Board is repealing the provisions of section 1399.26, which is the comprehensive list of the sections for which the Board may issue a citation. The need for this list will be unnecessary by the amendments to section 1399.25, which will allow the board to issue a citation and fine of over \$2,500 and will be consistent with the State Services Agencies Service's position that gave the board the criteria to set the fine over \$2,500 for certain citations and fines.

The proposed regulatory amendment will also clarify that withdrawn and dismissed citations shall not only continue to be purged but also destroyed immediately upon withdrawal or dismissal.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact:

The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination: None

Impact on Jobs/New Businesses:

The board has determined that this regulatory proposal would not have an impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Private Persons or Entities:

The Physical Therapy Board of California is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Housing Costs: None

EFFECT ON SMALL BUSINESS

The Physical Therapy Board of California has determined that the proposed regulations would not affect small businesses and would only affect individual applicants and licensees.

CONSIDERATION OF ALTERNATIVES

The Physical Therapy Board of California must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome on affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of the reasons and all of the other information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Physical Therapy Board of California at 1418 Howe Avenue, Suite 16, Sacramento, California 95825.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file that is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be addressed to:

Elsa Ybarra
1418 Howe Avenue, Suite 16
Sacramento, CA 95825
(916) 561-8262
(916) 263-2560 – Fax Number
Elsa_Ybarra@dca.ca.gov
The backup contact person is:

Rebecca Marco
1418 Howe Avenue, Suite 16
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(916) 561-8260
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Inquiries concerning the substance of the proposed regulations may be directed to Elsa Ybarra at (916) 561-8262.

Website Access: Materials regarding this proposal can be found at www.ptb.ca.gov.